

PART IV

SECTION 1-B

CENTRAL ACTS AND ORDINANCES

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 55 LCA 78.

Bangalore, dated the 7th October 1978.

Ordered that the Metro Railways (Construction of Works) Act, 1978 (No. 33 of 1978) published in Part II Section 1 of the Gazette of India Extraordinary, dated 21st August 1978 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

A. NEELAKANTARYA,

Under Secretary to Government,

Deptt. of Law and Parly. Affairs.

Assented to on 21st August 1978 Act No. 33 of 1978.

THE METRO RAILWAYS (CONSTRUCTION OF WORKS) ACT, 1978.

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THE SCHEDULE.

THE METRO RAILWAYS (CONSTRUCTION OF WORKS) ACT, 1978.

AN ACT

to provide for the construction of works relating to metro railways in the metropolitan cities and for matters connected therewith.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title, commencement and application.*—(1) This Act may be called the Metro Railways (Construction of Works) Act, 1978.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(3) It applies in the first instance to the metropolitan city of Calcutta ; and the Central Government may, by notification in the Official Gazette, declare that this Act shall also apply to such other metropolitan city and with effect from such date as may be specified in that notification and thereupon the provisions of this Act shall apply to that city accordingly.

2. *Definitions.*—(1) In this Act, unless the context otherwise requires.—

(a) “Advisory Board” means the Advisory Board constituted under section 4 ;

(b) “arbitrator” means the arbitrator appointed under section 16 ;

(c) “building” means a house, outhouse, stable, latrine, urinal, shed, hut or wall or any other structure or erection, whether of masonry bricks, wood, mud, metal or any other material or any part of a building, but does not include a plant or machinery installed in a building or any part thereof or any portable shelter ;

(d) “commissioner” means a commissioner of metro railway appointed under section 27 ;

(e) “competent authority” means any person or authority authorised by the Central Government, by notification in the Official Gazette, to perform the functions of the competent authority under this Act for such area as may be specified in the notification ;

(f) “development” with its grammatical variations means the carrying out of building, engineering, mining or other operations in, on, over or under land or the making of any material change in any building or land or planting of any tree on land and includes redevelopment ;

(g) “land” includes any right or interest in land ;

(h) “metro alignment”, in relation to any metropolitan city, means such alignment of the metro railway as is specified in the Schedule under that city and includes the metro railway ;

(i) “metro railway” means a metro railway or any portion thereof for the public carriage of passengers, animals or goods and includes.—

(a) all land within the boundary marks indicating the limits of the land appurtenant to a metro railway,

(b) all lines of rails, sidings, yards or branches worked over for the purposes of, or in connection with, a metro railway,

(c) all stations, offices, ventilation shafts and ducts, warehouses, workshops, manufactories, fixed plants and machineries, sheds, depots and other works constructed for the purpose of, or in connection with a metro railway ;

(j) “metro railway administration”, in relation to any metro railway, means the General Manager of that metro railway ;

(k) “metropolitan city” means the metropolitan city of Bombay, Calcutta, Delhi or Madras ;

(l) “metropolitan city of Bombay” means the area covered by Greater Bombay as defined in the Bombay Municipal Corporation Act 1888, (Bombay Act III of 1888) .

(m) “metropolitan city of Calcutta” means the area described under the heading “1. Calcutta Metropolitan District” in the Schedule to the Calcutta Metropolitan Planning Area (Use and Development of Land) Control Act 1965, (West Bengal Act XIV of 1965) ;

(n) “metropolitan city of Delhi” means the entire area of the Union territory of Delhi ;

(o) “metropolitan city of Madras” means the area covered by the City of Madras as defined in the Madras City Municipal Act (Act IV), 1919 ;

(p) “prescribed means prescribed by rules made under this Act ;

(q) “rolling stock” includes locomotives, engines, carriages (whether powered or not), wagons, trollies and vehicles of all kinds moving or intended to move on rails ;

(r) "to erect", in relation to any building, includes—

(i) any material alteration or enlargement of such building,

(ii) conversion, by structural alteration, into a place for human habitation of such building not originally constructed for human habitation.

(iii) conversion, into more than one place for human habitation of such building originally constructed as one such place,

(iv) conversion of two or more places of human habitation in such building into a greater number of such places,

(v) such alteration of such building as would alter the drainage or sanitary arrangements therein or would materially affect its security, and

(vi) the addition of any rooms in such building.

(2) All other words and expressions used herein and not defined but defined in the Indian Railways Act 1890, (9 of 1890), shall have the meanings, respectively, assigned to them in that Act.

CHAPTER II

Metro railway administration

3. *General Manager.*—The Central Government may, for the purposes of this Act, appoint a General Manager for every metro railway.

4. *Constitution of Advisory Board.*—(1) The Central Government may constitute an Advisory Board for every metro railway for the purpose of assisting or advising that Government on—

(a) the formulation and co-ordination of plans for the development of metro railway and its expansion ;

(b) the financing and execution of any project for the construction of the metro railway ;

(c) such other matters as may be referred to it for carrying out the purposes of this Act and in particular for the purpose

of ensuring that the functions of the metro railway administration are exercised with due regard to the circumstances or conditions prevailing in, and requirements of, the metropolitan city.

(2) The Advisory Board shall consist of such number of members (being officers of the Government) not exceeding nine as may be appointed to it by the Central Government.

(3) The Central Government shall appoint one of the members of the Advisory Board as its Chairman.

(4) The Central Government shall publish in the Official Gazette the names of all the members of the Advisory Board and the Chairman thereof.

(5) The Advisory Board shall meet at such times and places and shall observe such procedure in regard to the transaction of its business as may be prescribed.

(6) The members of the Advisory Board shall hold office for such term as may be prescribed.

5. *Committees.*—(1) The Advisory Board may constitute as many committees as it deems necessary consisting wholly of members of such Board or wholly of other persons or partly of members of the Board and partly of other persons for such purposes as it may think fit.

(2) Every committee constituted under sub-section (1) shall meet at such times and places and shall observe such procedure in regard to the transaction of its business as may be prescribed.

(3) There shall be paid to the members of the committee who are not members of the Advisory Board, such fees and allowances for attendance at the meetings of the committee and such travelling allowances as may be prescribed.

CHAPTER III

ACQUISITION

6. *Power to acquire land, etc.*—Where it appears to a metro railway administration that for the construction of any metro railway or any other work connected therewith—

(a) any land, building, street road or passage, or

(b) any right of user, or any right in the nature of easement, therein,

is required for such construction or work, it shall apply to the Central Government in such form as may be prescribed for acquiring such land, building, street, road or passage or such right of user or easement.

7. *Publication of notification for acquisition.*—(1) On receipt of an application under section 6, the Central Government, after being satisfied that the requirement mentioned therein is for a public purpose, may, by notification in the Official Gazette, declare its intention to acquire the land, building, street, road or passage, or the right of user, or the right in the nature of easement, therein referred to in the application.

(2) Every notification under sub-section (1) shall give a brief description of the land, building, street, road or passage.

(3) The competent authority shall cause the substance of the notification to be published in such places and in such manner as may be prescribed.

8. *Power to enter for survey, etc.*—On the issue of a notification under sub-section (1) of section 7, it shall be lawful for the metro railway administration or any officer or other employee of the metro railway—

(a) to enter upon and survey and take level of the land, building street, road or passage specified in the notification ;

(b) to dig or bore into the sub-soil ;

(c) to set out the intended work ;

(d) to mark such levels, boundaries or lines by placing marks and cutting trenches ;

(e) to do all other acts necessary to ascertain whether the metro railway can be laid upon or under the land, building street, road or passage, as the case may be:

Provided that while exercising any power under this section the metro railway administration or such officer or other employee shall cause as little damage or injury as possible to such land, building, street road or passage, as the case may be.

9. *Hearing of objection.*—(1) Any person interested in the land, building, street, road or passage may, within twenty-one days from the date of publication of the notification under sub-section (1) of section 7 object to the construction of the metro railway or any other work connected therewith upon or under the land, building, street, road or passage, as the case may be.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard, either in person or by a legal practitioner, and may, after hearing all such objections and after making such further enquiry, if any, as the competent authority thinks necessary, by order, either allow or disallow the objections.

Explanation.—For the purposes of this sub-section “legal practitioner” has the same meaning as in clause (i) of sub-section (1) of section 2 of the Advocates, Act, 1961, (25 of 1961).

(3) Any order made by the competent authority under sub-section (2) shall be final.

10. *Declaration of acquisition.*—(1) Where no objection under sub-section (1) of section 9 has been made to the competent authority within the period specified therein or where the competent authority has disallowed the objection under sub-section (2) of that section, the competent authority shall, as soon as may be, submit a report accordingly to the Central Government and on receipt of such report, the Central Government shall declare, by notification in the Official Gazette, that the land, building, street, road or passage, or the right of user, or the right in the nature of easement, therein for laying the metro railway should be acquired.

(2) On the publication of the declaration under sub-section (1), the land, building, street, road or passage, or the right of user, or the right in the nature of easement, therein shall vest absolutely in the Central Government free from all encumbrances.

(3) Where in respect of any land, building, street, road or passage, notification has been published under sub-section (1) of section 7 either for its acquisition or for the acquisition of the right of user, or any right in the nature of easement, therein, but no declaration under this section has been published within a period of one year from the date of publication of that notification, the said notification shall cease to have any effect.

(4) A declaration made by the Central Government under sub-section (1) shall not be called in question in any court or by any other authority.

11. *Power to take possession of acquired land, etc.*—(1) Subject to the provisions of section 14, where any land, building, street, road or passage has vested under sub-section (2) of section 10, the competent authority may by notice in writing direct the owner as well as any other person who may be in possession of such land, building, street, road or passage surrender or deliver possession thereof to the competent authority or any person duly authorised by it in this behalf within sixty days of the service of the notice.

(2) If any person refuses or fails to comply with any direction made under sub-section (1), the competent authority shall apply,—

(a) in the case of any land, building, street, road or passage situated in any area falling within the Presidency-town of Bombay, Calcutta or Madras, to the Commissioner of Police;

(b) in the case of any land, building, street, road or passage situated in any area other than the area referred to in clause (a), to the Executive Magistrate, and such Commissioner or Magistrate, as the case may be, shall enforce the surrender of the land, building, street, road or passage to the competent authority or to the person duly authorised by it.

12. *Right to enter into the land where right of user, etc., is vested in the Central Government.*—Where the right of user in, or any right in the nature of easement on, any land, building, street, road or passage has vested in the Central Government

under section 10, it shall be lawful for the metro railway administration or any officer or other employee of the Central Government to enter and do any other act necessary upon the land, building, street, road or passage for carrying out the construction of the metro railway or any other work connected therewith.

13. *Determination of amount payable for acquisition.*—(1) Where any land, building, street, road or passage is acquired under this Act, there shall be paid an amount which shall be determined by the competent authority.

(2) Where the right of user in, or any right in the nature of an easement on, any land, building, street, road or passage is acquired under this Act, there shall be paid an amount to the owner and any other person whose right of enjoyment in that land, building, street, road or passage has been affected in any manner whatsoever by reason of such acquisition an amount calculated at ten per cent, of the amount determined under sub-section (1) for that land, building, street, road or passage.

(3) If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties the amount shall, on an application by either of the parties, to the arbitrator, be determined by the arbitrator.

(4) The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (3), as the case may be, shall take into consideration—

(a) the market value of the land, building, street, road or passage on the date of publication of the notification under section 7 ;

(b) the damage, if any, sustained by the person interested at the time of taking possession of land, by reason of the severing of such land from other land ;

(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, building, street, road or passage by reason of the acquisition injuriously affecting his other immovable property in any other manner, or his earnings ;

(d) if, in consequence of the acquisition of the land, building, street, road or passage, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.

14. *Deposit and payment of amount.*—(1) The amount determined by the competent authority under section 13 shall be deposited by the Central Government in such manner as may be prescribed with the competent authority before taking possession of the land, building, street, road or passage.

(2) As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land, building, street, road or passage is situated.

(5) Where the amount determined under section 13 by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest at six per cent, per annum on such excess amount from the date of taking possession under section 11 till the date of the actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government in such manner as may be prescribed with the competent authority and the provisions of sub-sections (2) to (4) shall apply to such deposit.

15. *Competent authority to have certain powers of civil court.*—The competent authority shall have, for the purposes of this Act, all the powers of a civil court while trying a suit under the Code of Civil Procedure (5 of 1908), 1908, in respect of the following matters, namely;—

(a) summoning and enforcing the attendance of any person and examining him on oath ;

(b) requiring the discovery and production of any document ;

(c) reception of evidence on affidavits ,

(d) requisitioning any public record from any court or office ;

(e) issuing commission for examination of witnesses.

16. *Arbitrator.*—(1) For every metro railway the Central Government shall, for the purposes of this Act, appoint as arbitrator a person who is, or has been, or is qualified for appointment as, a Judge of a High Court.

(2) The arbitrator may, if he thinks it expedient so to do, call in his aid one or more assessors and hear the references wholly or partially with the aid of such assessors.

(3) Subject to the provisions of this section the provisions of the Arbitration Act (10 of 1940), 1940, shall apply to every arbitration under this Act.

17. *Land Acquisition Act 1 of 1894 not to apply.*—Nothing in the Land Acquisition Act, 1894, shall apply to an acquisition under this Act.

CHAPTER IV

Construction of works

18. *Functions of metro railway administration.*—Subject to the control of the Central Government, the metro railway administration shall, for the purpose of constructing any metro railway or any other work connected therewith,—

(a) make or construct in, upon, across, under or over any lands, buildings, streets, roads, railway or tramways or any

rivers, canals, brooks, streams or other waters or any drains water-pipes, gas-pipes, electric lines or telegraph lines, such temporary or permanent inclined planes, arches, tunnels, culverts, embankments, aqueducts, bridges, ways or passages as the metro railway administration thinks proper ;

(b) alter the course of any rivers, canals, brooks, streams or water-courses for the purpose of constructing tunnels, passages or other works over or under them and divert or alter as well temporarily as permanently, the course of any rivers, canals, brooks, streams or water-courses, or any drains, water-pipes, gas-pipes, electric lines or telegraph lines or raise or sink the level thereof in order the more conveniently to carry them over or under, as the metro railway administration thinks proper ;

(c) make drains or conduits into, through or under, any lands adjoining the metro railway for the purpose of conveying water from or to the metro railway ;

(d) erect or construct such houses, warehouses, offices and other buildings and such yards, stations, engines, machinery, apparatus and other works and conveniences, as the metro railway administration thinks proper ;

(e) alter, repair or discontinue such buildings, works and conveniences as aforesaid or any of them, and substitute others in their stead ;

(f) draw, make or conduct such maps, plans, surveys or tests, as the metro railway administration thinks proper ;

(g) do all other acts necessary for making, maintaining, altering or repairing and using the metro railway.

19. *Powers of metro railway administration.*—(1) The metro railway administration shall, for the purpose of constructing any metro railway or any other work connected therewith, have power—

(a) to enter into contracts and leases and to execute all instruments necessary therefor ;

(b) to make such number of rail tracks as the Central Government may think necessary upon, under, along or across any land, canal, river, street or road on or in the metro align-

ment and all other works and conveniences in connection therewith ;

(c) to open or divert, as the case may be, any street, road, cable, trench, drain (including a sewer), channel, ditch, culvert or any other device (whether for carrying of sullage, sewage, offensive matter, polluted water, trade effluent, rain water sub-soil water or any other object), electric or gas supply line or tele-communication line, or telegraph installation, over across or under any land, building, street, road, railway or tramway ;

(d) to burrow tunnels ;

(e) to lay down signalling and other communication facilities, electric sub-stations, supply lines and other works ;

(f) to regulate drilling of tubewells or sinking of wells, public or private, in the proximate vicinity of the metro alignment ;

(g) to do all other things necessary or expedient for the exercise of any of the aforesaid powers.

(2) While exercising any powers under sub-section (1), the metro railway administration shall take such precautionary measures as are necessary, shall do as little damage as possible and shall be liable only for the damage or cost actually suffered or incurred by any person as a result of the exercise of such powers.

20. Development over metro alignment.—(1) Any person who proposes to develop any land or building along or on the metro alignment shall, before commencing such development and without in any way limiting his obligation under any other Act to obtain any approval or consent, submit to the metro railway administration details of the proposed development and shall comply with any conditions imposed by the metro railway administration in respect thereof.

(2) The metro railway administration shall, while imposing any condition under sub-section (1), have regard to—

(a) the safety of the metro railway ;

(b) such other matters as may be prescribed.

21. *Power to prohibit or regulate construction of buildings and excavation.*—(1) If the Central Government is of opinion that it is necessary or expedient so to do for facilitating the construction of any metro railway or for ensuring the safety of any metro railway, it may, by notification in the Official Gazette,—

(a) direct that no building or any such development as may be specified in the notification shall be constructed or made above the metro alignment or on any land within such distance, not exceeding ten metres on either side of the metro alignment, as may be specified in the notification and where there is any building on such land also direct the owner of, or the person having control over, such building to demolish such building or to make such additions or alterations to such building as may be specified in the notification or to desist from making any such development and within such period as may be specified in the notification ;

(b) direct temporary evacuation of all persons together with any movable property or animal that may be in the custody, control or possession of such persons from any building situated above the metro alignment or in any area within a distance not exceeding twenty metres on either side of such alignment and within such period as may be specified in the notification :

Provided that before issuing any notification under this clause, the Central Government shall provide every such person temporarily with alternative accommodation, which in its opinion is suitable, free of cost, or an amount, which in its opinion is sufficient, to procure a temporary alternative accommodation.

(2) Where any property is needed or likely to be needed for providing any alternative accommodation under the proviso to clause (b) of sub-section (1), such property shall be deemed to be needed for a public purpose under section 3 of the Requisitioning and Acquisition of Immovable property Act 1952, (30 of 1952), and the competent authority under that Act shall requisition the property in accordance with the provisions of that Act

and such provisions shall, in relation to such requisition, apply accordingly.

(3) In specifying the distance under clause (a) of sub-section (1), the Central Government shall have regard to—

- (a) the nature and the requirement of the metro railway ;
- (b) the safety of the building ;
- (c) such other matters as may be prescribed.

(4) Where any notification has been issued under sub-section (1) directing the owner or the person having control over any building to demolish such building or to make additions or alterations to such building or to desist from making any development specified in such notification, a copy of the notification containing such direction shall be served on the owner of, or the person having control over, such building, as the case may be,—

(i) by delivering or tendering it to such owner or person;

(ii) if it cannot be delivered or tendered, by delivering or tendering it to the agent of such owner or person or any adult male member of the family of such owner or person or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which such owner or person is known to have last resided or carried on business or personally worked for gain ; or failing service by these means ;

(iii) by post.

(5) Every person shall be bound to comply with any direction contained in any notification issued under sub-section (1).

22. *Payment of amount for prohibition of construction, etc.—*

(1) If in consequence of any direction contained in any notification issued under sub-section (1) of section 21 any person sustains any loss or damage, such person shall be paid an amount which shall be determined by the competent authority in the first instance.

(2) If the amount determined by the competent authority is not acceptable to either of the parties, the amount shall, on an application by either of the parties to the arbitrator, be determined by the arbitrator.

(3) The competent authority or the arbitrator, while determining the amount under sub-section (1) or sub-section (2), as the case may be, shall take into consideration—

(i) the loss or damage sustained by such person in his earnings ;

(ii) the diminution, if any, of the market value of the land or building immediately after the date of publication of such notification ;

(iii) where in pursuance of any direction any building has been demolished or any additions or alterations to such building have been made or any development has been desisted by such person, the damage sustained by him in consequence of such demolition or the making of such additions or alterations or the desisting from making such development and the expenses incurred by such person for such demolition or additions or alterations;

Provided that the expenses incurred for such demolition or additions or alterations shall not be taken into consideration if such demolition or additions or alterations has or have been done by the metro railway administration under sub-section (2) of section 36 ;

(iv) if any such person is compelled to change his residence or place or business the reasonable expenses, if any, that may have to be incurred by him incidental to such change.

23. *Power to underpin building or otherwise strengthen it.—*

(1) If the metro railway administration is of opinion that it is necessary or expedient so to do for facilitating the construction of any metro railway or for ensuring the safety of any metro railway, it may, underpin or otherwise strengthen any building within such radius not exceeding fifty metres from the metro alignment.

(2) The metro railway administration shall give to the owner or occupier of such building at least ten days notice in writing before undertaking the work of underpinning or otherwise strengthening the building:

Provided that where the metro railway administration is satisfied that an emergency exists, no such notice shall be necessary.

3) Where the underpinning or strengthening was executed in connection with—

(a) the carrying out of the works upon the land where any building is situated, or

(b) the construction or operation of any metro railway, the metro railway administration may, at any time after the underpinning or strengthening of such building is completed and before the expiration of a period of twelve months,—

(i) in a case referred to in clause (a), from the completion of such works; and

(ii) in a case referred to in clause (b), from the date on which traffic was opened in the metro railway, enter upon and survey such building and do such further underpinning or strengthening thereon as it may deem necessary.

24. *Power to enter, etc.*—(1) With a view to making survey, or to ascertaining the nature or condition, of any land or building for the purpose of construction of any metro railway or any other work connected therewith, the metro railway administration or any person authorised by that administration may, at any reasonable hour in the day time and after giving reasonable notice to the owner or occupier of such land or building, enter upon or into such land or building in, along over or near the metro alignment to—

(a) inspect the same;

(b) make measurements and drawings and take photographs thereof and such other suitable measures as may be necessary to explore and check up, by digging trial pits or otherwise, the foundation of any building in the vicinity of the metro alignment;

(c) take such other measures as the said administration deems necessary and proper.

(2) Without prejudice to the powers conferred on it under section 19, the metro railway administration may, by writing, request any person or body of persons controlling any sewer, storm water drain, pipe, wire or capable to carry out at the expense of the metro railway administration any alterations thereto which that administration is authorised or may be required to carry out to meet any particular situation for carrying out the purposes of this Act.

(3) If any difference or dispute arises between the metro railway administration and the person or body of persons referred to in sub-section (2) in relation to any such alterations or the cost thereof, such difference or dispute shall be determined by the Central Government in consultation (wherever necessary) with the State Government and the decision of the Central Government in this regard shall not be called in question in any court.

25. *Amount payable for damage, loss or injury.*—(1) Where the metro railway administration exercises any power conferred on it by or under this Act and in consequence thereof any damage, loss or injury is sustained by any person interested in any land, building, street, road or passage, the metro railway administration shall be liable to pay to such person for such damage, loss or injury such amount as may be determined by the competent authority.

(2) If the amount determined by the competent authority under sub-section (1) is not acceptable to either of the parties, the amount payable shall, on application by either of the parties to the arbitrator, be determined by the arbitrator.

(3) The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (2), as the case may be, shall have due regard to the damage, loss or injury sustained by any person interested in the land, building, street, road or passage by reason of—

(i) the removal of trees or standing crops, if any ;

(ii) the temporary severance of the land, building, street road or passage ;

(iii) any injury to any other property whether movable or immovable.

26. *Right to claim for damages.*—No claim in respect of any damage, loss or injury alleged to have been caused as a consequence of construction of any metro railway or any other work connected therewith under this Act shall lie against the metro railway administration unless such claim is made within a period of twelve months from the date of completion of the construction of such metro railway or other work in the area in which such damage, loss or injury is caused.

CHAPTER V

Inspection of metro railway

27. *Appointment and duties of commissioner.*—(1) The Central Government may appoint as many persons as it thinks fit by name or by virtue of their office to be commissioners of metro railway.

(2) Every commissioner shall—

(a) inspect the metro railway with a view to determining whether it is fit to be opened for public carriage of passengers and report thereon to the Central Government ;

(b) make such periodical or other inspections of any metro railway or of any rolling stock used thereon as the Central Government may direct ;

(c) perform such other duties as may be imposed on him by or under this Act or any other enactment for the time being in force relating to railways or required by the Central Government.

28. *Powers of commissioners.*—Subject to the control of the Central Government every commissioner shall have the power—

(a) to enter upon and inspect any metro railway or any rolling stock used thereon ;

(b) to make any enquiry or to take any measurement as he thinks fit for the performance of his duties under this Act ;

(c) by an order in writing under his hand and official seal addressed to any metro railway administration, to require the attendance before him of any officer or other employee of the metro railway and to require answers or returns, to such enquiries as he thinks fit to make, from such officer or other employee or from the said administration ;

(d) to require the production of any book or other documents belonging to, or in the possession or control of, any metro railway administration which it appears to him to be necessary to inspect for the performance of his duties by or under this Act.

29. *Facilities to be afforded to commissioner.*—Every metro railway administration shall afford to every commissioner all reasonable facilities for performing the duties or exercising the powers imposed or conferred upon him by or under this Act.

CHAPTER VI

Miscellaneous

30. *Surplus land to be sold or otherwise disposed of.*—Every metro railway administration may, with the previous approval of the Central Government, sell or otherwise dispose of any land vested in the Central Government under the provisions of this Act when such land is no longer required for the purposes of the metro railway.

31. *Notice of accidents and enquiries.*—(1) If any accidents occurs during the construction of any metro railway or at any stage subsequent thereto as a consequence of such construction and the accident results in, or is likely to have resulted in, loss of human being or animal or damage to any property, it shall be the duty of the metro railway administration to give notice to the Central Government of the occurrence of any such loss or damage in such form and within such time as may be prescribed.

(2) On receipt of a notice under sub-section (1), the Central Government may, if it thinks fit, appoint a commission to enquire into the accident and report as to—

(a) the cause of such accident ;

(b) the manner in which and the extent to which the provisions of this Act or any other Act for the time being in force in so far as those provisions regulate and govern the safety of any person, animal or property, have been complied with.

(3) The commission appointed under sub-section (2), while holding an enquiry, shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, (5 of 1908) in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any person and examining him on oath . ,

(b) requiring the discovery or production of any document ;

(c) reception of evidence on affidavits ;

(d) requisitioning any public record from any court or office ;

(e) issuing commission for examination of witnesses.

32. *Power to alter the entries in the Schedule.*—(1) The Central Government may, by notification in the Official Gazette,—

(a) add to the Schedule the metro alignment in respect of a metropolitan city to which this Act is made applicable under sub-section (3) of section 1 ;

(b) alter any metro alignment specified in the Schedule if it is of opinion that such alteration is necessary for the construction and maintenance of the metro railway to which such alignment relates.

(2) Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be laid before each House of Parliament.

33. *Prohibition of obstruction.*—No person shall, without any reasonable cause or excuse, obstruct any person with whom the metro railway administration has entered into a contract, in the performance or execution by such person of such contract.

34. *Local authorities to assist.*—Every local authority shall render such help and assistance and furnish such information to

the metro railway administration as that administration may require for discharging its functions and shall make available to the said administration for inspection and examination such records, maps, plans and other documents as may be necessary for the discharge of such functions.

35. *Prohibition of removal of marks.*—No person shall remove any marks placed or fill up any trench cut for the purpose of marking levels, boundaries or lines by the metro railway administration.

36. *Penalty for failure to comply with directions issued under section 21.*—(1) If any person wilfully fails to comply with any direction contained in any notification issued under section 21, he shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Without prejudice to the provisions of sub-section (1), if any person fails to demolish any building or make additions or alterations thereto in pursuance of any direction contained in any notification issued under section 21 within the period specified in the notification, then, subject to such rules as the Central Government may make in this behalf, it shall be competent for any officer authorised by the metro railway administration in this behalf to demolish such building or make necessary additions or alterations thereto.

37. *General provision for punishment of offences.*—Whoever contravenes any provision of this Act or of any rule made thereunder shall, if no other penalty is provided for such contravention elsewhere in this Act or the rules, be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

38. *Offences by companies.*—(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

39. *Bar of jurisdiction.*—No suit or application for injunction shall lie in any court against the Central Government or the metro railway administration or any officer or other employee of that Government or the metro railway or any person working for or on behalf of the metro railway administration, in respect of any work done or purported to have been done or intended to be done by it or the said administration or such officer or other employee or such person in connection with the construction of any metro railway or any other work connected therewith.

40. *Effect of Act and rules, etc., inconsistent with other enactments.*—The provisions of this Act or any rule made or any notification issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

41. *Protection of action taken in good faith.*—(1) No suit, prosecution or other legal proceeding shall lie against the Central

Government, the metro railway administration or any officer or other employee of that Government or the metro railway for anything which is in good faith done or intended to be done under this Act.

(2) No suit, prosecution or other legal proceeding shall lie against the Central Government or the metro railway administration or any officer or other employee of that Government or the metro railway for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

42. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, do anything not inconsistent with such provisions, which appears to it to be necessary or expedient for the purpose of removing the difficulty :

Provided that no such order shall, in relation to any metropolitan city, be made after the expiry of a period of two years from the date on which this Act applies or is made applicable to such metropolitan city under sub-section (3) of section 1.

43. *Application of the Indian Railways Act, 1890.*—Save as otherwise provided in this Act, the provisions of this Act shall be in addition to, and not in derogation of, the Indian Railways Act, 1890 (9 of 1890).

44. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely :—

(a) the times and places at which the Advisory Board shall meet and the procedure in regard to transaction of business by the Advisory Board under sub-section (5) of section 4 ;

(b) the term of office of the members of the Advisory Board under sub-section (6) of section 4 ;

(c) the times and places at which the committees shall meet and the procedure in regard to transaction of business by the committees under sub-section (2) of section 5 ;

(d) the payment of fees, allowances and travelling allowances to the members of the committee under sub-section (3) of section 5 ;

(e) the form in which an application for acquisition shall be made under section 6 ;

(f) the places at which and the manner in which the substance of the notification shall be published under sub-section (3) of section 7 ;

(g) the manner in which the amount shall be deposited with the competent authority under sub-sections (1) and (6) of section 14 ;

(h) the matters to be specified under clause (b) of sub-section (2) of section 20 ;

(i) the matters to be specified under clause (c) of sub-section (3) of section 21 ;

(j) the form in which and the time within which a notice shall be given under sub-section (1) of section 31 ;

(k) any other matter which is required to be or may be prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

45. *Saving.*—Notwithstanding anything contained in this Act any proceeding, for the acquisition of any land, under the

Land Acquisition Act, 1894 (1 of 1894), for the purpose of any metro railway, pending immediately before the commencement of this Act before any court or other authority shall be continued and be disposed of under that Act as if this Act had not come into force.

Notification No. LAW.60 LCA 78

Bangalore, dated the 16th October 1978.

Ordered that the Additional Duties of Excise (Textiles and Textile Articles) Ordinance, 1978 (No. 4 of 1978) published in Part II, Section 1 of the *Gazette of India*, Extra-ordinary, dated 3rd October, 1978 be republished in the *Karnataka Gazette*. for general information.

By Order and in the name of the Governor of Karnataka.

A. NEELAKANTARYA,

Under Secretary to Government,

Deptt. of Law and Parliamentary Affairs.

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GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (Legislative Department)

New Delhi, the 3rd October, 1978/Asvija 11, 1900 (Saka)

THE ADDITIONAL DUTIES OF EXCISE (TEXTILES AND TEXTILE ARTICLES) ORDINANCE, 1978

No. 4 OF 1978

Promulgated by the President in the Twenty-ninth Year of the Republic of India.

An Ordinance to provide for the levy and collection of additional duties of excise on certain textiles and textile articles.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. Short title and commencement:—(1) This Ordinance may be called the Additional Duties of Excise (Textiles and Textile Articles) Ordinance, 1978.